

While the mortgage meltdown has been seen as a unique crisis for most Americans, it is just “deja vu all over again” for many minority communities and moderate-income communities. Moreover, organizations from these communities have been warning the government of the crisis for over a decade.

After the urban riots in the 1960s, the Kerner Commission report famously noted that we were becoming two nations – one white, one black – separate and unequal. Part of this inequality was that minority neighborhoods had been redlined and cut off from access to mainstream mortgage loans. HUD, under George Romney, sought to save the inner-city by pouring Federal Housing Administration (FHA) loans into minority and racially changing neighborhoods. But HUD virtually eliminated sound underwriting and oversight. With the mortgages fully insured to protect the investors, with no effective oversight from HUD, and with the huge, but financially inexperienced, minority home purchase market suddenly opened up, abuse was practically assured. Does this sound familiar?

The results led to FHA scandals involving fraud and abuse on a massive scale. Instead of saving the cities, the result was that Romney presided over the wholesale destruction of most of his own city of Detroit and huge sections of other major cities such as Chicago, Baltimore, Philadelphia, Cleveland, and Atlanta. Notably, Fannie Mae provided one of the major sources of the FHA financing that supported this discrimination and exploitation.

Community organizations formed in many cities to fight the onslaught of foreclosures. Organizations of white, African-American, and Hispanic residents united to fight this exploitation. Their fundamental principles could not have been more conservative. They fought the government programs for abandoning them to an unregulated market of toxic loans and sought out prime conventional lenders to serve their neighborhoods on a fair and equal basis. In 1973, these groups formed the National People’s Action (NPA). These coalitions of community organizations were responsible for some dynamic financial reform legislation, including the Home Mortgage Disclosure Act of 1975 (HMDA) and the Community Reinvestment Act of 1977 (CRA).

The HMDA provides lender by lender disclosure of the locations and types of mortgage loans. It has become an indispensable resource for identifying underserved markets and patterns of possible discrimination and exploitation. The Community Reinvestment Act requires banking institutions to serve the needs of their entire communities. Through this obligation, community-based organizations have developed partnerships with lenders and reinvested billions of dollars back into rebuilding American inner-city and moderate-income communities – urban and rural.

Then, in the middle 1990s, when the subprime lenders virtually exploded onto the mortgage markets, these same communities found themselves, once again, the targets of discriminatory and exploitative lending. The high levels of fraudulent and abusive

lending practices soon contributed to foreclosure rates that sometimes dwarfed the levels of the FHA scandals. In his 1973 book on the FHA scandals (*Cities Destroyed for Cash*), Brian Boyer noted that if all the FHA foreclosures were collected together in one city (called Romney City), it would have been the sixth largest city in the nation. Tracking the levels of subprime foreclosures from the middle 1990s to today, the households they represent would now likely equal the eighth largest state – somewhere between the populations of Michigan and Ohio. After years of hard won reinvestment, the same neighborhoods in Detroit, Chicago, Baltimore, Cleveland, Philadelphia, and other cities that had been laid waste by the FHA scandals are now laid waste again by unsound subprime lending.

These neighborhoods are not the hot and high growth markets where some borrowers speculated on the soaring home values. These are mostly modest neighborhoods of people who had struggled to attain the American dream of home ownership who were targeted by subprime lenders eager with marketing ploys designed to capture the equity these people had worked so hard to build up over the years. These homes were often the only real financial assets these people had.

For their part, the banking regulators took the extraordinarily absurd position that concentrations of subprime loans, often to the exclusion of sound prime loans, in lower-income and middle income neighborhoods were to be rewarded with high grades for reinvestment under the CRA. In this regard, the banking regulators literally encouraged subprime discrimination and exploitation at the retail level. At the wholesale level, the regulators failed to monitor the risks on the credit lines from the major banks to the subprime mortgage lenders that gave the lenders the cash flow necessary to warehouse their loans for sale in the securities markets.

For their part, while Fannie Mae and Freddie Mac were prodded by community and consumer groups to refuse to purchase through the front door individual mortgages with certain abusive subprime characteristics, they became two of the largest purchasers of this same toxic mix of subprime loans through their own investment in mortgage-backed securities through the back door. Their purchases in recent years are reported to have been as large as one quarter to one third of the subprime securities issuances. This must go down as one of the most extreme examples of corporate hypocrisy on record – not to mention the betrayal of their affordable and fair housing obligations.

For their part, these community organizations warned Washington of the coming nightmare as abusive lending progressed into massive foreclosures. Research and reports from the National Training and Information Center, the Center for Community Change, ACORN, The National Community Reinvestment Coalition, the Center for Responsible Lending, the Consumer Federation of America, a host of legal assistance attorneys, and many other community and consumer groups have continually warned of the coming subprime disaster for over a decade. In 2000, HUD and Treasury built their own reports (*Curbing Predatory Lending* and *The Unequal Burden*) on the models of the community research and documented the alarming increase in subprime lending, unfair and deceptive practices, and the growing concentrations of foreclosures, particularly in inner-city and

minority communities. Ironically, the government did not even heed its own dire warnings.

Also in 2000, a trial in Philadelphia against The Associates, the largest subprime lender at that time, revealed a broad range of deceptive marketing practices and programs. One program was designed specifically to flip (refinance) existing loans purely to raise the interest rates and generate more fees. Another program actually tested the loan officers to make sure that they hid the costs of fees and unnecessary credit insurance from prospective borrowers. Major lawsuits claiming deceptive and misleading trade practices were filed by the Federal Trade Commission or the attorneys general in states all across the country against the very largest subprime lenders (The Associates, Household Finance, and Ameriquest), resulting in settlements of hundreds of millions of dollars. A unit within Treasury reported a more than thirty-fold increase in suspected fraud in the mortgage markets between 1997 and 2007.

Still, it seemed easy, then, to blame the victims for accepting these loans. As long as it was largely just moderate-income, and minority neighborhoods that suffered, neither the government, nor Wall Street, nor the media saw it as a crisis. Long before the housing bubble burst and brought the pain of subprime foreclosure to the upper-middle class and high growth markets, the abuses in the subprime markets had already destroyed decades of rebuilding in inner-city markets. The physical impact of the foreclosures was like Katrina without the water. Whole blocks were decimated by boarded up, abandoned, or burned out homes. But, unlike Katrina, no reporters stood in the streets to cover the flood of foreclosures. No cry was raised then at the failure of the Washington to rescue these neighborhoods.

Meanwhile, on their own, community groups and legal assistance attorneys developed an expertise in restructuring loans for borrowers who were facing foreclosure. By challenging fraudulent or abusive underwriting and servicing practices, these groups have been able to rescue as many as eighty percent of these troubled loans in some communities – a testament to both the effectiveness of the programs and the level of abusive practices in the subprime markets.

Last May, representatives of the National People's Action met with Chairman Bernanke at the Federal Reserve in Washington seeking his help in taking the community expertise to a higher level where government resources and programs could reach a larger share of the market. At a minimum, they asked him to set an example by requiring his regulated lenders to simply suspend each foreclosure until the original loan had been reviewed for fraud or deceptive or misleading practices that could be the basis for requiring the restructuring of the loan. The Chairman claimed that it was not even possible for him to do that.

How much of the current disaster could have been avoided if the government had listened to the warnings of its citizens in the minority and moderate-income communities over the past decade and used the community models to restructure bad loans before they contaminated the entire global market? Still, their successful advocacy

at rescuing exploited borrowers puts a lie to the claim that the servicing agreements prohibit the restructuring of these troubled loans. Sadly, reflecting the power of the banking lobby, the rescue legislation passed this summer specifically prohibits the use of these funds to file legal objections to foreclosures.

Surely, our government could lift this restriction, provide for bankruptcy protection of one's home, and change the servicing agreements so that those Americans who have been defrauded and exploited do not continue to lose their homes and their neighborhoods. If community groups and legal assistance lawyers working with scant financial resources have found ways to save Americans from unreasonable foreclosures, a government willing to spend \$700 billion to bail out the banking and investment moguls who profited obscenely from the scams could spare some change for homeowners who were its victims.